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March 27, 2008

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: WC Docket no. 01-92, Developing a Unified Intercarrier Compensation Regime

Dear Ms. Dortch:

On March 26, 2008 Jim Frame of NECA, Rich Coit of the South Dakota Telecommunications Association, Larry Thompson CEO of VantagePoint, and the undersigned met with Ian Dillner to discuss Access Avoidance and Call Signaling. On March 27, 2008 the same parties also met separately with Chris Moore, Commissioner Jonathan Adelstein and Scott Bergmann, and John Hunter regarding the same topics.

Specifically, we explained why the Commission should expand its signaling requirements to all interconnected voice providers. The attached document was used in the meetings.

Questions regarding this subject may be directed to me.

Sincerely,

A handwritten signature in black ink that reads "Joe A. Douglas". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Attachment

CC: Hon. Jonathan Adelstein
Scott Bergmann
Ian Dillner
John Hunter
Chris Moore

NECA & SDTA Presentation

March 26-27, 2008



There is Broad Industry Consensus for Enhanced Call Signaling Rules

- Industry recognizes the importance of passing unaltered and accurate signaling data through the entire call path
- AT&T, Verizon, Qwest, CTIA, NCTA, USTA, Time Warner Telecom, CLECs, mid-sized carriers, wireless carriers, rural carriers all support clarification of call signaling rules
- Granting NECA's call signaling petition will solve many outstanding phantom traffic problems

NECA's Call Signaling Petition

- NECA's petition requests the Commission to:
 - Extend call signaling rules to all interconnected voice service providers
 - Require accurate and unaltered calling party number (CPN) be transmitted with all calls
 - Require CPN to be transmitted through entire call path
 - Establish use of originating and terminating telephone numbers as a fallback rule absent actual geographic data or negotiated agreement

FCC Action Required to Address Phantom Traffic Issues

- Delivery of accurate CPN should be required for all PSTN-terminated voice traffic
 - Necessary for proper billing of traffic
- Fall-back “telephone numbers rule” should be allowed for determining call jurisdiction
 - Wireless carriers not providing cell site location data
 - Factors in existing agreements do not reflect actual traffic
- Section 251/252 negotiations and T-Mobile Order do not work for small telcos

SDTA Members* Have Tried 251/252 Negotiations and T-Mobile Order

- Negotiations often hit roadblock on realistic traffic factors
- Wireless carriers unwilling to:
 - Provide wireless customer location data to allow a traffic study per FCC's First Report and Order on Local Competition
 - Establish traffic allocation factors based on telephone numbers rule analysis
- Small telcos must often accept low traffic factors in order to bill for any traffic at all

*See [Appendix A](#) for SDTA Information.

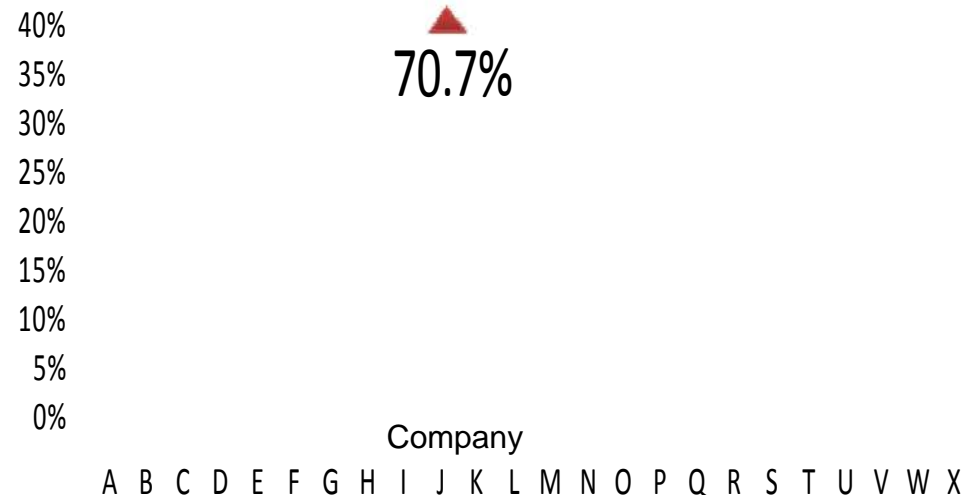
Status of Wireless Traffic Exchange Agreements in South Dakota

- Interconnection agreements in place between SDTA member companies and most wireless companies operating in South Dakota
- However, agreement factors not representative of actual traffic being exchanged
 - See **Appendix B** for details.

Example: “Negotiated” InterMTA Factors Vs. Actual Traffic Data (One Wireless Carrier)

- Traffic analysis shows actual InterMTA traffic exceeds “negotiated” factor
- Lost access revenue for many SDTA members (\$12-\$39 per access line per year - 2004 data)
- Many other agreements have 0% InterMTA factor

InterMTA Percentage of Total Terminated Traffic



Negotiated Contract %

Actual InterMTA %

Negotiations Are Unfruitful and Arbitrations Expensive

- Wireless carriers refuse to reasonably negotiate traffic factors
 - Wireless carriers currently have no incentive to use real data for identification of InterMTA vs. IntraMTA traffic
 - Real data would result in wireless carrier paying increased intercarrier compensation charges
- Small telcos not being compensated properly for terminated InterMTA traffic
 - Wireless carriers favor “bill & keep” compensation proposals
 - Arbitration – expensive and lengthy
 - Often means hundreds of thousands of dollars in litigation expenses

Appropriate Identification of Traffic is Important Issue for SDTA Members

- Wireless traffic terminating to SDTA members is 25%-35% of total terminating traffic subject to intercarrier compensation
- SD State Legislature realized significance and enacted 2004 phantom traffic statutes
 - U.S. District Court in SD invalidated state statutes on federal preemption grounds – December 2006
 - FCC action is needed
 - See **Appendix C** for details

“Telephone Numbers Rule” is a Reasonable Proxy

- 2004 study showed wireless CDR method and “telephone numbers rule” method generally produced similar traffic factors in South Dakota
- Weighted average of 7 companies showed:

20.4%

17.2%

- CDR method analysis could be performed if wireless carriers willing to provide data

The ability to establish traffic factors based on actual terminated traffic is essential to meaningful negotiations.

- Use of “Telephone Numbers Rule” (CPN as proxy for wireless customer location)
 - Small telcos could determine call jurisdiction without relying on data only available from wireless carriers
 - Would assist negotiation process
 - Wireless carriers would have incentive to produce actual traffic data – per FCC policy

Solution: Grant NECA's Call Signaling Petition

- Requires that accurate and unaltered calling party number (CPN) be transmitted with all calls (both inter and intrastate)
- Would allow use of “Telephone Numbers Rule” as proxy for wireless customer location (where no other method agreed to)
- Small telcos would be able to perform study without relying on data only available from wireless carrier

Appendices

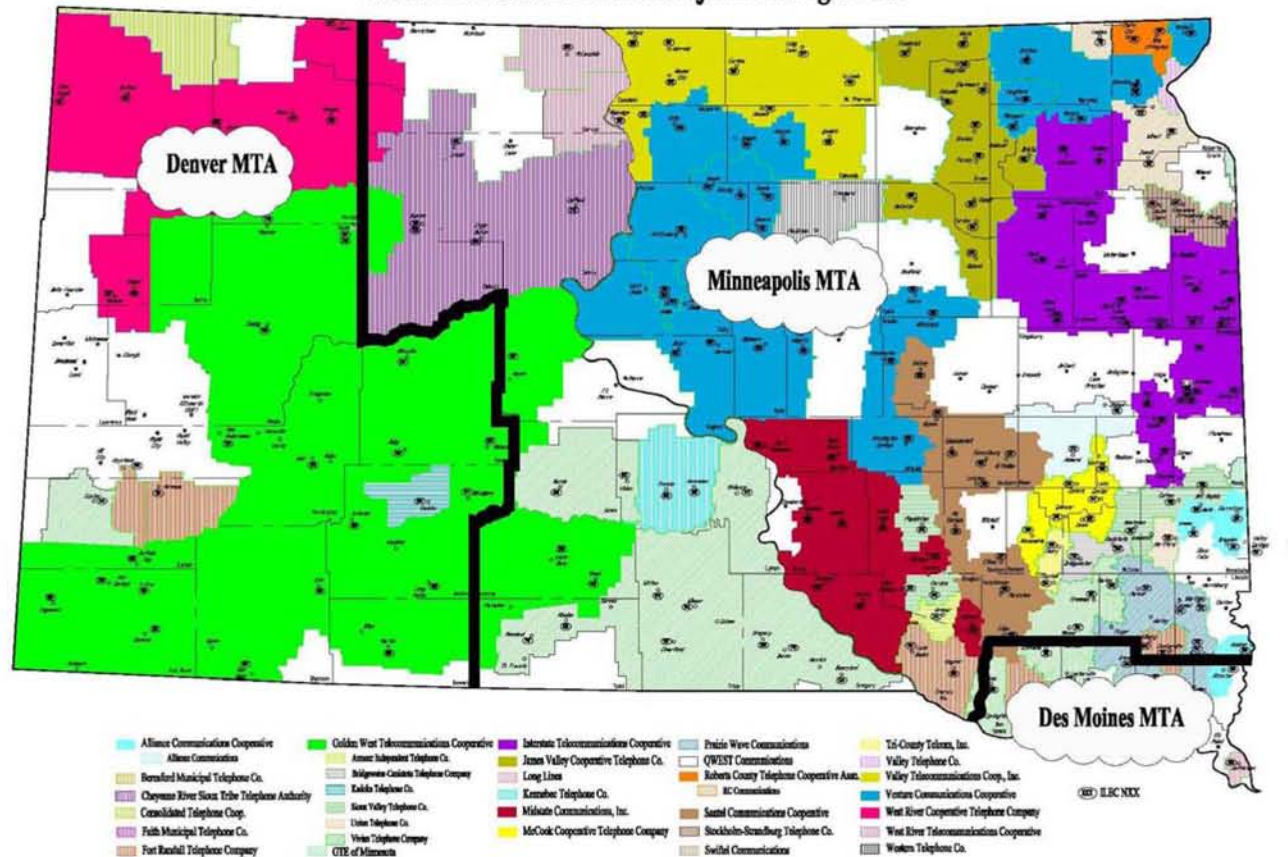
- Appendix A: SDTA Background
- Appendix B: SDTA Interconnection Agreements
- Appendix C: SD Phantom Traffic Legislation

Appendix A – SDTA Background

- South Dakota Telecommunications Association (SDTA)
 - 29 member companies
 - Cooperatives
 - Privately owned
 - Municipal
 - Tribal owned
 - Collectively serve approximately 80% of South Dakota landmass
 - Most of its members are also NECA members

Appendix A – SDTA Background (Cont'd)

South Dakota Telecommunications Companies in
Relation to South Dakota Major Trading Areas



Appendix B – SDTA

Interconnection Agreements

- Agreements in place between SDTA member companies and most wireless carriers operating in South Dakota
- Agreements either include no InterMTA traffic factor or low percentage default InterMTA traffic factors

Appendix B – SDTA Interconnection Agreements (Cont'd)

- In certain agreements, the initial cell site was established as the proxy location of the originating caller for purposes of determining point of origination on wireless calls.
 - “InterMTA traffic” means all wireless to wireline calls, which originate in one MTA and terminate in another MTA based on the connecting cell site serving the wireless end user and the location of the end office serving the wireline end user.”

Appendix B – SDTA Interconnection Agreements (Cont'd)

- Some wireless carriers have also agreed to use traffic studies as a means of subsequently adjusting agreed upon “default” factors.

“The initial PIU (Percent InterMTA Use) factor to be applied to total minutes of use delivered by the CMRS Provider shall be 3.0%. This factor shall be adjusted three months after the executed date of this Agreement and every six months thereafter during the term of this Agreement, based on a mutually agreed to traffic study analysis. Each of the Parties to this Agreement is obligated to proceed in good faith toward the development of a method of traffic study that will provide a reasonable measurement of terminated interMTA traffic.”

- ▶ **Provisions intended to allow for appropriate categorization of traffic but the wireless carriers have not complied**

Appendix C – SD Phantom Traffic Legislation

- Phantom Traffic Legislation, SD Senate Bill 144, effective July 1, 2004 (SDCL §§ 49-31-109 through 49-31-115):
 - Required call signaling information; and/or
 - Call record information that would allow for appropriate identification for billing
 - Allowed percentage measurements to be utilized for unknown jurisdiction traffic.
 - Allowed for application of a penalty rate (intrastate access rate) if not enough information was supplied to the terminating carrier for identification of jurisdiction and proper billing of the traffic.

Appendix C – SD Phantom Traffic Legislation (Cont'd)

- Verizon Wireless filed Declaratory Judgment action with U.S. District Court in SD (Central Division, Civ. 04-3014) asking for determination that statutes be pre-empted as being in conflict with the federal law
- An Opinion and Order preempting the statutes was issued on December 28, 2007

Appendix C – SD Phantom Traffic Legislation (Cont'd)

■ Verizon Wireless challenge:

- Argued that state law required them to provide within the call signaling stream actual physical location of wireless subscriber and argued a technical incapability based on such interpretation
- Argued that requirements related to provisioning of historical call detail information would impose undue economic burden (whether interpreted to require call detail records on every terminated wireless minute of use or sampling or traffic study analysis of terminated traffic)

Appendix C – SD Phantom Traffic Legislation (Cont'd)

- Argued that statute could not be interpreted to allow for use of originating cell site for purposes of determining call jurisdiction
- During trial before the Court, facts were presented indicating that Verizon Wireless uses a “MARS” system to record traffic utilizing its network facilities and that the data captured includes originating cell site data on calls originated within its network